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Andrew Rouse

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PILLSBURY WINTHROP SHAW PITTMAN, LLP

c/o SUSAN TRADER

1650 TYSONS BOULEVARD

P.O. BOX 10500

MCLEAN, VA 22102

EXAMINER

PAN, YUWEN

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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: ANDREW ROUSE, QUINTON ZONDERVAN, THOMAS
BENTLEY, TIMOTHY LAWSON, and CHRISTOPHER HEROT

Application No. 09/750,320
Technology Center 2600

Mailed: May 22, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed October 16, 2008, reveals that claim(s) in the Claims appendix of the Appeal Brief are not consistent with the last Office Action. The Applicant filed an Amendment After Final on August 3, 2004, cancelling claims. An Advisory was not entered regarding this amendment. The Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Specifically, claim 36 in the Claims appendix of the Appeal Brief is listed as (Cancelled). However, in the last Office Action, filed September 8, 2008, Claim 36 is listed as being rejected under 35 U.S.C. 103(a).

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) correction of the Claims Appendix of the Brief filed October 16, 2008; and
- 2) for such further action as may be appropriate.

Application No. 09/750,320

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/alw

PILLSBURY WINTHROP SHAW PITTMAN, LLP
c/o SUSAN TRADER
1650 TYSONS BOULEVARD
P.O. BOX 10500
MCLEAN VA 22102